

AND NOW, this 12th day of October, 2006;

IT IS HEREBY ORDERED that Defendant's Motion to Dismiss the Complaint (Document No. 5) is **DENIED**.

IT IS FURTHER ORDERED that the Report and Recommendation (Document No. 13) of Magistrate Judge Lenihan, dated September 22, 2006, is adopted as the opinion of the Court.



DAVID STEWART CERCONI
United States District Judge

cc: Hon. Lisa Pupo Lenihan
United States Magistrate Judge

Neal A. Sanders, Esquire
Dirk D. Beuth, Esquire
Law Office of Neal Sanders
1924 North Main Street Extension
Butler, PA 16001

Robert L. Frey, Jr., Esquire
Lynch Weis LLC
Suite 10, Cranberry Professional Park
101 Smith Drive
Cranberry Township, PA 16066

Francis C. Rapp, Jr., Esquire
Feldstein Grinberg Stein & McKee
428 Boulevard of the Allies
Pittsburgh, PA 15219